
BZA-1931
MICHAEL GASSER
Special Exception

STAFF REPORT
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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, representing the property and tower owner Crown Castle LLC, is requesting a special exception to allow the expansion of a previously approved special exception (BZA-1678) for a primary communications tower. Petitioner is requesting approval for a total of 7 carriers on the tower which currently has 3 carriers, located at 3950 N 500 W, Shelby 5 (NE) 23-5. (UZO 3-2)

AREA ZONING PATTERNS:

This 2 acre parcel was divided in 1989, presumably for this tower. The tower was originally built without a special exception in 1989 because at that time staff believed that cell towers were controlled by the IURC and exempt from the zoning ordinance.

The site was rezoned from AA to A in November 2000 (Z-2023) which allowed a previous petitioner to seek the first of two special exceptions already heard for this tower. (At that time, the UZO only permitted cell towers in the A district by special exception; they were not permitted in AA.) All surrounding property is zoned AA, Select Agricultural or A, Agricultural.

AREA LAND USE PATTERNS:

Two special exceptions have been granted to legitimize (BZA-1578) and expand (BZA-1678) the use; a primary communications tower and two accessory equipment buildings currently occupy the site. A 6' tall security fence surrounds the equipment. Most of the surrounding properties are in row crop production. The area outside of the fence is wooded with large areas of standing water.

TRAFFIC AND TRANSPORTATION:

CR 500 W is a gravel road classified as a rural local road per the *Thoroughfare Plan*. According to the petition, there will be an average of one visit to the site per month per carrier for maintenance and inspections.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

No well and septic are required for a cell tower.

STAFF COMMENTS:

This 2.014 acre site, owned by petitioner, was parcelized in 1989 for this cell tower. The legal description for this case includes the entire parcel, not just the fenced-in area. Petitioner is requesting approval to expand the amount of carriers that can collocate on

this tower to a maximum of seven. There are currently three carriers on this tower. The tower height, 295', is not being altered and meets the ordinance-required setback of 59'; the site plan shows a setback of 60'. There is an existing 6' tall fence per ordinance requirements with barbed wire to enclose the structures for security purposes.

This is a case of a new carrier requesting to collocate on a tower with existing approvals for up to three carriers only. The petitioner is planning ahead by requesting approval for up to a total of 7 carriers; this will allow up to four new carriers in the future without requiring another special exception.

At its meeting on April 1, 2015, the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan.

Regarding the ballot items:

1. Section 3.1 of the Unified Zoning Ordinance **DOES** authorize the special exception for a primary communications tower in the A zoning district.

And it is staff's opinion that:

2. The requirements and development standards for the requested use as prescribed by the Unified Zoning Ordinance **WILL** be met. The site plan complies with all required setbacks and is enclosed by a 6' tall security fence.
3. Granting the special exception **WILL NOT** subvert the general purposes served by the Ordinance. The established use of the property will not change.
4. Granting the special exception **WILL NOT** materially and permanently injure other property or uses in the same district and vicinity because of:
 - a. Traffic generation: Minimal traffic is generated by this use, an average of one trip per carrier per month has been the pattern established; four new carriers would not increase traffic beyond a negligible amount.
 - b. Placement of outdoor lighting: Security lighting on the sheds and generators is common to other buildings in the A zone.
 - c. Noise production: No additional noise would be produced.
 - d. Hours of operation: 24 hours per day, seven days per week are typical for this use.

STAFF RECOMMENDATION:

Approval